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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE 1517th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 March 2002, at 3 p.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 3.05 p.m.

FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE; THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (1993-2003) (agenda item 8) (continued) (CERD/C/60/Misc.25)

Draft general recommendation of the Committee on the Elimination of Racial Discrimination

1. The CHAIRMAN invited the Committee members to consider the Committee's draft general recommendation on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban and the Durban Declaration and Programme of Action (CERD/C/60/Misc.25), and to decide upon a standard paragraph relating to follow-up to the Durban Conference to include in all future concluding observations.

2. Mr. SICILIANOS, introducing the draft general recommendation (CERD/C/60/Misc.25), said that the scope of the document had been limited to the paragraphs and sections of the Durban Declaration and Programme of Action which specifically addressed the Convention and the work of the Committee. The operative part was divided into two main sections, dealing respectively with measures to strengthen the implementation of the Convention and measures to strengthen the action of the Committee.

3. There were eight recommendations in the first section, the first five of which were based on article 75 of the Programme of Action. Paragraph 6 had been designed to avoid excessive wordiness and detail, and referred simply to the "relevant provisions of the Declaration and Programme of Action", which would include inter alia paragraphs 86, 87 and 104 of the Declaration and paragraphs 40 and 68 of the Programme of Action. Paragraph 7 was based largely on paragraph 191 (a) of the Programme of Action, and could serve as a standard formula which the Committee could include in its concluding observations. Paragraph 8 simply invited States to disseminate information on the Declaration and Programme of Action and made reference to article 7 of the Convention.

4. The second part of the document set out recommendations to strengthen the work of the Committee. Paragraphs 9 and 10 were drawn from paragraph 76 of the Programme of Action. Paragraph 11 presented the standard wording used systematically by the Committee when it called upon States to ratify the amendment to article 8, paragraph 6, of the Convention. The words "and endorsed by the United Nations General Assembly in its resolution 47/111 of 16 December 1992" should be inserted at the end of the sentence. Paragraph 12 was based on paragraph 178 of the Programme of Action. Other paragraphs addressed the role of national human rights institutions and non-governmental organizations (NGOs) in cooperating with the Committee, and called upon the Office of the United Nations High Commissioner for Human Rights (OHCHR) to continue to increase awareness of the Committee's work. The final four paragraphs set out the Committee's commitments to cooperate with OHCHR and the five independent eminent experts to be appointed by the Secretary-General of the United Nations under the Declaration and Programme of Action, to coordinate its activities with other treaty bodies and to take the Declaration and Programme of Action into account in the fulfilment of its mandate.

5. Mr. KJAERUM noted that the text under consideration had to strike a delicate balance. While avoiding repetition of the relevant paragraphs of the Durban Declaration and Programme of Action, it still had to reflect the richness of that instrument. The draft addressed key issues, in particular in paragraphs 6 and 7, which would be important for the future work of the Committee, for example in respect of plans of action and implementation of the Declaration. For the sake of consistency, the Declaration and Programme of Action should be referred to as the "Durban Declaration" throughout the document.

6. Mr. ABOUL-NASR proposed that the words "and welcoming their contribution during the Conference" should be inserted at the end of the seventh preambular paragraph, following the words "struggle against racial discrimination". In operative paragraph 2, the word "optional" should be inserted before "declaration". The tone of operative paragraph 4 should be less imperative; the Committee should merely recommend that States "consider withdrawing reservations ...". It was not advisable to include the word "relevant" in operative paragraph 6, as that implied that other provisions were not relevant. In operative paragraph 8 the insertion of the words "in respect of education" after "information on the efforts" would improve the text, as readers would not have to refer to the Convention to understand what was meant. Operative paragraph 10 should read "To include in periodic reports to the Committee ...", and operative paragraph 13 should specify which reporting obligations were being discussed. Operative paragraph 17 addressed the question of the five eminent experts to be appointed by the United Nations Secretary-General. Perhaps those experts could be selected from among the members of the Committee.

7. Mr. de GOUTTES agreed that the word "relevant" should be deleted from paragraph 6, and proposed strengthening the text by including the words "in particular in respect of articles 2 to 7 of the Convention" at the end of the paragraph.

8. Mr. SHAHI supported the proposal made by Mr. de Gouttes concerning paragraph 6. As for paragraph 19, the Durban Conference had addressed a host of issues extending beyond the Committee's mandate. The wording should be confined to matters relating to the Committee's terms of reference.

9. Mr. RESHETOV noted that the wording of paragraph 4 would be more consistent with the Convention and with the Vienna Convention on the Law of Treaties if the word "contrary" was replaced with "not compatible with". In the interests of accuracy, in paragraph 9, the word "concluding" should be inserted before "observations".

10. The draft did not do enough to strengthen the role of NGOs and to increase minority representation in the delegations that were sent to present reports to the Committee. During the current session the Danish delegation had claimed that no representatives of the Greenlandic community, the main ethnic minority in the country, had been available to address the Committee, and the Swedish Government had on other occasions sent delegations without any representatives of the Sami people. In some cases federal or multi-ethnic States had sent delegations consisting of 15 members of a single race or ethnic group. The Committee should address that problem in the general recommendation. Similarly, it should call for the translation of the Convention into the languages of ethnic minorities. While such factors were not

mentioned specifically in the Convention, they were crucial to its successful implementation. The second preambular paragraph referred to "one human family". The Committee, which was composed of people from various parts of the world and cultures, should refer as well to its own ability to further the dialogue of civilizations.

11. Mr. LINDGREN ALVES proposed that operative paragraph 7 should be amended to read "to include in their periodic reports information on the measures they have taken to implement the Durban Declaration and Programme of Action at the national level".

12. The CHAIRMAN, speaking as a member of the Committee, said that in paragraph 4 of the draft, reservations were split into two categories, those contrary to the object and purpose of the Convention, and others. In his view, the Committee should simply ask States to withdraw all reservations to the Convention. With regard to paragraph 7, he agreed with the proposal by Mr. Lindgren Alves, because it was more direct and flexible. Concerning paragraph 12, he said that the Committee should ask the High Commissioner for Human Rights, and not States, to provide it with adequate resources. A reference to that effect could be inserted in paragraph 15, and paragraph 12 could be deleted. As to paragraph 19, he suggested deleting the word "fully". He also favoured drawing upon paragraph 177 of the Programme of Action of the Durban Conference and inserting a phrase urging States parties to continue cooperating with the Committee in order to promote the effective implementation of the Convention.

13. Mr. de GOUTTES said that in paragraph 6, the word "provisions" was not appropriate and should be replaced by "recommendations".

14. Mr. TANG Chengyuan asked whether the reference in paragraph 9 to "national monitoring and evaluation mechanisms" meant national institutions or non-governmental organizations (NGOs). He did not think that NGOs would be able to take on such tasks.

15. Mr. PILLAI proposed inserting the words "and the need to strengthen its capacities to undertake these responsibilities" at the end of the sixth preambular paragraph. With regard to heading II on "Measures to strengthen the action of the Committee", he proposed replacing the word "action" by "working" or "functioning". On paragraph 13, he wondered whether it might not be appropriate to refer also to the role which regional mechanisms could play in helping States parties fulfil their reporting obligations, in line with the point made in paragraph 191 of the Durban Programme of Action. In respect of paragraph 17, he said that the words "to be ready" should be deleted.

16. Mr. HERNDL said that he did not think that the language was too strong when the Committee asked for withdrawal of reservations or for ratification, because paragraph 4 made a distinction between reservations that were contrary to the object and purpose of the Convention, which must be withdrawn, and others, which States could consider withdrawing. Similarly, in paragraph 11, the word "consider" should be deleted and the phrase "and endorsed by the General Assembly in its resolution 47/111" inserted at the end. Turning to paragraph 16, he said that some reference should also be included to cooperation with other United Nations institutions.

17. Mr. SICILIANOS pointed out that the wording of paragraph 4 followed that of paragraph 75 of the Durban Programme of Action, but he had no objection to Mr. Diaconu's proposed change.

18. Consideration of the draft general recommendation was deferred to allow the various proposals made to be incorporated and a new version of the text to be produced.

The meeting was suspended at 4.10 p.m. and resumed at 4.30 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the fourth and fifth periodic reports of Croatia (CERD/C/60/Misc.29/Rev.4)

19. The CHAIRMAN invited the members of the Committee to comment on the concluding observations concerning the fourth and fifth periodic reports of Croatia.

Paragraph 1

20. Paragraph 1 was adopted.

Paragraph 2

21. Mr. PILLAI said that when the Committee expressed regret that the responses to its previous concluding observations were not included in the body of a State party report, it usually did so further down, and not in the introductory section.

22. Mr. THORNBERRY (Country Rapporteur) said that although it was true that such a reference was not made in every case, an overwhelming amount of information which might have been included in the report had been provided during the oral introduction and was very difficult to assimilate, and he therefore thought that it might be useful to mention that fact in the current case.

23. Paragraph 2 was adopted unchanged.

Paragraph 3

24. Mr. RESHETOV thought that the words "almost exclusively" were too strong.

25. The CHAIRMAN suggested replacing those words by "mainly".

26. Paragraph 3, as amended, was adopted.

Paragraph 4

27. Mr. RESHETOV said that he could endorse retaining the paragraph, provided it was used for every successor State of the former Yugoslavia; otherwise, it might be interpreted as suggesting that other States were responsible for that situation.

28. Mr. AMIR wondered whether the phrase "which has resulted in obstacles to the full implementation of the Convention" was necessary. Nothing was known about the cause of those obstacles.

29. Mr. THORNBERRY (Country Rapporteur) said that there had in fact been a discussion on whether to include such a reference. The period concerned had been very traumatic for Croatia and its neighbours. In its concluding observations on Viet Nam, for example, the Committee had given the State party some credit in that direction, although that country's period of transition had been much longer. He had had the impression that despite many difficulties, Croatia had been making considerable efforts to implement the Convention.

30. Paragraph 4 was adopted unchanged.

Paragraph 5

31. Paragraph 5 was adopted.

Paragraph 6

32. Mr. THORNBERRY (Country Rapporteur), in response to a query by Mr. ABOUL NASR, said that the regional organizations referred to were not necessarily European.

33. Paragraph 6 was adopted.

Paragraph 7

34. Mr. PILLAI questioned the appropriateness of the phrase "to subscribe to article 14 of the Convention".

35. Mr. THORNBERRY (Country Rapporteur) said it was shorter than "to make an optional declaration under article 14 of the Convention" but conveyed the same meaning.

36. Paragraph 7 was adopted.

Paragraph 8

37. The CHAIRMAN suggested the deletion of the first part of the second sentence which read: "In relation to the legal framework for the protection of the rights of national minorities".

38. Paragraph 8, as amended, was adopted.

Paragraph 9

39. Mr. ABOUL-NASR questioned the need for the rather strong statement in the second sentence about the Committee's concern that the delay in the publication of the results of the 2001 census might create distrust among communities.

40. Mr. THORNBERRY (Country Rapporteur) said that according to information provided to the Committee the delay had sparked a fairly strong and negative reaction and was creating tension among different communities. He suggested the word "distrust" could be replaced by "tension".

41. The CHAIRMAN, referring to the recommendation under paragraph 9, suggested the insertion of the words "to ensure, as necessary," before "special protection and benefits for ethnic minorities". For not all ethnic minorities necessarily needed special protection all the time.

42. Paragraph 9, as amended, was adopted.

Paragraph 10

43. Paragraph 10 was adopted.

Paragraph 11

44. The CHAIRMAN suggested the paragraph should be considerably shortened to read: "The Committee expresses concern at the continued practice of segregation of Roma children within the educational system and reports on discrimination against the Roma concerning access to employment, health, political representation and citizenship rights". The full text of the corresponding recommendation should nevertheless be retained as detail was necessary there.

45. Paragraph 11, as amended, was adopted.

Paragraph 12

46. Mr. AMIR, referring to the phrase "in the areas affected by war" in the second sentence, asked whether any areas had remained unaffected by the war.

47. The CHAIRMAN replied that some parts of the Adriatic coast had remained unaffected.

48. Mr. RESHETOV proposed for the sake of clarity that the word "areas" be replaced by "localities".

49. The CHAIRMAN suggested that the end of the recommendation should be reworded to read "to declare illegal and prosecute incitement to ethnic hatred and racial violence".

50. Paragraph 12, as amended, was adopted.

Paragraph 13

51. Mr. ABOUL-NASR said the paragraph was rather too long and should be shortened. Also, no mention was made of the financial problems facing the State party.

52. Mr. KJAERUM suggested splitting the text into two subparagraphs, one dealing with problems relating to the National Programme for "Return" and one with the State party's failure to address discrimination issues successfully.

53. Mr. THORNBERRY (Country Rapporteur), responding to a further suggestion by the CHAIRMAN, said it was difficult to shorten the text, since the issues it dealt with were all closely interrelated and centred around one basic problem.

54. Paragraph 13 was adopted.

Paragraph 14

55. The CHAIRMAN suggested the addition of the words "inconsistencies between" before the phrase "articles 8 and 16 of the Croatian Law on Citizenship" in the first sentence. He further suggested the deletion of the second and fourth sentences of the paragraph.

56. Paragraph 14, as amended, was adopted.

Paragraphs 15 and 16

57. Paragraphs 15 and 16 were adopted.

Paragraph 17

58. The CHAIRMAN said that a reference would need to be included to the relevant resolution of the United Nations General Assembly.

59. On that understanding, paragraph 17 was adopted.

Paragraph 18

60. Mr. ABOUL-NASR asked what was meant exactly by "an updating report". Given the numerous requests in the concluding observations for more information, did it mean a report solely in response to the questions raised in the concluding observations?

61. Mr. THORNBERRY (Country Rapporteur) said one of the major problems with the State party's report had been that it had largely been based on out-of-date information, given that the results of the 2001 census had not yet been published. "An updating report" should provide the Committee with answers to many of the questions raised during the dialogue with the State party.

62. The CHAIRMAN recalled that a further paragraph concerning follow-up to the World Conference against Racism would be incorporated in the text of the concluding observations in due course.

63. On that understanding, the draft concluding observations of the Committee concerning the fourth and fifth periodic reports of Croatia as a whole, as amended, were adopted.

Draft concluding observations concerning the initial to fourth periodic reports of the Republic of Moldova (continued) (CERD/C/60/Misc.29/Rev.2)

64. The CHAIRMAN recalled that paragraph 3 had been deferred pending consultations among several Committee members on the drafting of a new text.

65. Mr. KJAERUM said it had been agreed that paragraph 3 should be reworded:

> "The Committee notes that the State party is going through a difficult period of transition and is facing serious economic and social challenges. Furthermore the State party cannot exercise its jurisdiction on part of its territory, the region of Transnistria, because of ethnic conflicts. The Committee is preoccupied with the impact of such conflicts on the implementation of the Convention."

66. Mr. THORNBERRY suggested that the words "preoccupied with" should be replaced by "concerned about".

67. The CHAIRMAN said he would take it that the Committee wished to adopt the concluding observations, with the new version of paragraph 3 read out by Mr. Kjaerum, as amended by Mr. Thornberry, and subject to the insertion of another paragraph on follow-up to the Durban Conference.

68. The draft concluding observations concerning the initial to fourth periodic reports of the Republic of Moldova as a whole, as amended, were adopted.

ORGANIZATIONAL MATTERS AND METHODS OF WORK (agenda item 3) (continued)

Committee's participation in a meeting on follow-up to the Durban Conference during the fifty-eighth session of the Commission on Human Rights

69. The CHAIRMAN announced that on Thursday, 21 March, the Commission on Human Rights would be discussing follow-up activities in connection with the World Conference against Racism. Although the Committee had not received an official invitation to attend the meeting, he would certainly welcome the opportunity to do so, thereby acquainting a broader public with the Committee's work in connection with follow-up to the Durban Conference, in particular its draft general recommendation. According to the Secretary, the Committee would need to send a letter to that effect to the Chairperson of the Commission.

70. Mr. ABOUL-NASR recalled a similar situation in the past when the Commission had eventually invited the Committee to attend such a meeting, but had not given it an opportunity to participate in the discussion. He was not in favour of sending a letter to the Chairperson of the Commission. It was deplorable that the Commission should fail to recognize the importance of the Committee and its work and that it should be necessary to request an invitation.

71. The CHAIRMAN said that in the letter he would not request an invitation but would stress the importance of the Committee's participation in the meeting.

72. Mr. HERNDL shared Mr. Aboul-Nasr's views. It was somewhat humiliating for the Committee to be obliged to signal its interest to the Commission, which should realize the value of the Committee's input in such a debate. Instead of sending a letter he suggested that the problem should be handled more discreetly simply by discussing it with the Secretary or the Chairperson of the Commission. The matter should nonetheless have been dealt with by the Bureau prior to the opening of the session.

73. Mr. YUTZIS said the situation showed the lack of communication between the different treaty bodies. Rather than making an issue of the incident and merely worsening the situation, the Committee should adopt a more diplomatic approach. He suggested that the Chairman of the Committee should hold private talks with the Chairperson of the Commission and come to some arrangement.

74. Mr. de GOUTTES said it was essential that the Chairman should have an opportunity to highlight the importance of the Committee's follow-up activities in connection with the Durban Conference. It was the responsibility of the Chairman to decide on the best possible way of handling the situation, although personally he favoured the approach advocated by Mr. Yutzis.

75. The CHAIRMAN said he would request the Secretary of the Committee to contact the Secretary of the Commission and indicate the Committee's interest in making a presentation at the meeting. He would not attend the meeting unless he was given assurances that he would have the opportunity to take the floor.

76. It was so agreed.

Date and place of the Committee's sixty-first session

77. The CHAIRMAN said it had now been confirmed that the Committee's next session would be held in the Palais des Nations. The provisional date for the opening of the session was 29 July 2002. However, there might be a possibility of starting one week later on 5 August 2002. He asked members of the Committee to indicate their preference by a show of hands. He noted the Committee's clear preference for the starting date of 5 August 2002.

FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE; THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (1993-2003) (agenda item 8) (continued)

Draft general recommendation of the Committee on the Elimination of Racial Discrimination (CERD/C/60/Misc.25/Rev.1)

78. The CHAIRMAN invited the Committee to consider the revised version of the text.

Preamble

79. The preamble was adopted.

Paragraph 1

80. Paragraph 1 was adopted.

Paragraph 2

81. Paragraph 2 was adopted.

Paragraph 3

82. Paragraph 3 was adopted.

Paragraph 4

83. Mr. HERNDL proposed the deletion of the word "all".

84. Paragraph 4, as amended, was adopted.

Paragraph 5

85. Paragraph 5 was adopted.

Paragraph 6

86. Mr. HERNDL proposed the deletion of the words "and recommendations" and the addition of the definite article before "relevant parts".

87. Paragraph 6, as amended, was adopted.

Paragraph 7

88. The CHAIRMAN suggested that the definite article before "action plans" should be deleted.

89. Paragraph 7, as amended, was adopted.

Paragraph 8

90. Paragraph 8 was adopted.

Paragraph 9

91. Paragraph 9 was adopted.

Paragraph 10

92. Paragraph 10 was adopted.

Paragraph 11

93. Paragraph 11 was adopted.

Paragraph 12

94. Paragraph 12 was adopted.

Paragraph 13

95. Mr. HERNDL proposed that the introductory phrase to the section should read "The Committee recommends:" and that the word "that" should be added at the beginning of each of the following four paragraphs.

96. Mr. THORNBERRY proposed that "the latter's" should be replaced with "their".

97. Mr. RESHETOV expressed the fear that some Governments might use the phrase "acting in accordance with their statutes" as a pretext for debarring some human rights organizations from participation in the preparation of the report, on the grounds that their statutes did not explicitly provide for such action.

98. Mr. SICILIANOS, supported by Mr. KJAERNUM, Mr. RESHETOV, Mr. LINDGREN ALVES and Mr. THORNBERRY, proposed the deletion of the phrase in question.

99. Paragraph 13, as amended, was adopted.

Paragraph 14

100. Paragraph 14, as amended, was adopted.

Paragraph 15

101. Paragraph 15, as amended, was adopted.

Paragraph 16

102. Paragraph 16, as amended, was adopted.

103. Mr. RESHETOV took issue with the words "commits itself" in the introductory phrase to the next section and proposed instead "The Committee intends".

104. Mr. LINDGREN ALVES observed that the purpose of the recommendation was to voice the Committee's commitment to supporting the follow-up to the Durban Conference and, for that reason, he considered that the wording was apt.

105. Mr. THORNBERRY proposed that the phrase should read "Finally, the Committee expresses its willingness to".

106. It was so agreed.

Paragraph 17

107. Mr. AMIR proposed the wording "To cooperate fully with the Office of the High Commissioner for Human Rights and the other institutions in the United Nations system ...".

108. Mr. ABOUL-NASR drew attention to the fact that, in accordance with the Convention, the Committee dealt only with the Secretary-General and transmitted its report to the General Assembly through his good offices.

109. Mr. SICILIANOS proposed the formulation "To cooperate fully with all relevant institutions of the United Nations system, in particular the Office of the High Commissioner for Human Rights ...".

110. Paragraph 17, as amended, was adopted.

Paragraph 18

111. Paragraph 18 was adopted.

Paragraph 19

112. Mr. HERNDL proposed the insertion of the word "achieving" between "with a view to" and "a more effective follow-up".

113. Paragraph 19, as amended, was adopted.

Paragraph 20

114. Paragraph 20 was adopted.

115. The General Recommendation of the Committee on the Elimination of Racial Discrimination on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance as a whole, as amended and subject to minor drafting changes, was unanimously adopted.

The meeting rose at 5.55 p.m.